

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

IAN LUCAS,	)	
	)	
<b>Plaintiff,</b>	)	<b>No. 3:24-cv-00440</b>
	)	
v.	)	<b>Judge Crenshaw</b>
	)	<b>Magistrate Frensley</b>
VANDERBILT UNIVERSITY,	)	
	)	
<b>Defendant.</b>	)	

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**VANDERBILT UNIVERSITY’S RESPONSE IN OPPOSITION  
TO PLAINTIFF’S MOTION TO DISQUALIFY**

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Vanderbilt University<sup>1</sup> (“Vanderbilt”) responds in opposition to “Plaintiff’s Motion to Disqualify Defendant’s Attorneys” [sic]. (Doc. No. 74) (“Plaintiff’s Motion”). Specifically, Vanderbilt opposes Plaintiff’s request that Jeffrey W. Sheehan be disqualified from participating in this matter. As an initial matter, Plaintiff’s Motion is moot because Mr. Sheehan’s appearance was limited to the now-dismissed Named Defendants and Vanderbilt has yet to be served.<sup>2</sup> Beyond that, Mr. Sheehan is bound by the same rules and ethical standards as all attorneys practicing before this Court. Plaintiff has not, and cannot, provide more than baseless allegations of improper conduct, which Mr. Sheehan specifically denies. Accordingly, Vanderbilt respectfully requests that the Court deny Plaintiff’s Motion, permitting Mr. Sheehan to continue his representation if and when Vanderbilt is served.

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<sup>1</sup> While identified as a Defendant in the style of this case, Vanderbilt has yet to be served. Vanderbilt has offered to waive service, referring Plaintiff to Fed. R. Civ. P. 4(d), but Plaintiff has not complied with Rule 4(d).

<sup>2</sup> Mr. Sheehan’s Notice of Appearance specifically provides that he appears as co-counsel of record for Defendants Mary Ann Jessee, Michelle Tellock, Joel Newsome, Melissa Porter, G.L. Black, Neil Jamerson, Jeremy Bourgoin, Mavis Schorn, Pamela Jefferies, E. Jacob Cummings, Jill Harris, Heather Robbins, Cate Enstrom, Angela Weaver, Mary Roy, Michael Fazi, and Feylyn Lewis (“Named Defendants”). (Doc. No. 12, Notice of Appearance of Jeffrey W. Sheehan.)

## **RELEVANT FACTS**

Plaintiff first filed this action in the Davidson County Circuit Court for Nashville Tennessee on March 17, 2024. (Doc. No. 4.) A multitude of Defendants, including the Named Defendants and three students (“Student Defendants”), were served on March 20, 2024. Plaintiff filed an Amended Complaint on March 30, 2024. (Doc. No. 1, Ex. B.) The next day, on March 31, 2024, Plaintiff filed a 59-page document also entitled “Amended Complaint,” but purporting to add 22 Defendants. (Doc. No. 1, Ex. D at 2-60.) None of those Defendants were served.

On April 11, 2024, the state court case was dismissed as a Notice of Removal was filed. Mr. Sheehan filed his Notice of Appearance for the Named Defendants on April 19, 2024. Judge Newbern filed an Order of Recusal on May 23, 2024. (Doc. No. 53.) Plaintiff’s Motion was filed over a month later on June 30, 2024.

## **ARGUMENT**

Plaintiff seeks to disqualify Mr. Sheehan from representing Vanderbilt on the grounds that Mr. Sheehan and the firm of Klein Solomon Mills, PLLC (“KSM”), impermissibly engaged in “judge shopping.” (Plaintiff’s Motion, p. 4.) Plaintiff claims, without citation, that this conduct “violates ethical standards of attorney conduct.” (*Id.*) Specifically, Plaintiff asserts that Mr. Sheehan’s “late notice of appearance,” coupled with his association with Vanderbilt University Law School and Judge Newbern, were a “strategic attempt to influence the judicial assignment process.” (*Id.* at 4-6.)

First, as stated above, Vanderbilt has not been served, and is not yet a party to this action. Mr. Sheehan’s representation, to this point, has been on behalf of the Named Defendants. (Doc. No. 12, Notice of Appearance of Jeffrey W. Sheehan.) Per this Court’s June 20, 2024, Order, both the Named and Student Defendants have been dismissed from this case. (Doc. No. 70, June 20, 2024, Order.) Mr. Sheehan has not entered an appearance on

behalf of Vanderbilt, and while he is expected to do so, Plaintiff's Motion seeks a preemptive bar to Mr. Sheehan's representation. Respectfully, Plaintiff's Motion is thus moot and should be denied.

Second, Plaintiff does not identify any ethical rule governing his motion. As attorneys practicing before this Court, Mr. Sheehan abides by and is held to the Tennessee Rules of Professional Conduct ("RPC" or "Tennessee Rules"). Local Rule 83.01(c)(6). Plaintiff does not cite to a single rule or case in support of his claim that Mr. Sheehan "violate[d] ethical standards of attorney conduct." (Plaintiff's Motion, p. 4.) Instead, Plaintiff relies on generic allegations and baseless platitudes. In the absence of an allegation that Mr. Sheehan violated a specific RPC, Vanderbilt respectfully requests this Motion be denied.

Finally, Plaintiff's Motion should be denied because his factual allegations do not support the implications Plaintiff attempts to place on Vanderbilt. Plaintiff alleges the following factual support for his claims that Vanderbilt, KSM, and Mr. Sheehan acted with willful intent:

- (1) The timing of Mr. Sheehan's "late" Notice of Appearance is suspect because of his minimal previous interactions in the case.
- (2) The shared relationship that Mr. Sheehan and Judge Newbern have with the Vanderbilt School of Law.

(Plaintiff's Motion, p. 5.)

The timing of Mr. Sheehan's appearance in this case, and any alleged discrepancy identified by the Plaintiff, can be addressed by the fact that Mr. Sheehan joined KSM on April 8, 2024. (Ex. 1, Declaration of Jeffery W. Sheehan.) Prior to April 8, 2024, Mr. Sheehan was not an attorney with KSM, and could not communicate with Plaintiff on behalf of Vanderbilt or the Named Defendants. Mr. Sheehan filed his Notice of Appearance on April 19, 2024, within two weeks of his start date at KSM. (Doc. No. 12, Notice of Appearance of Jeffrey W.

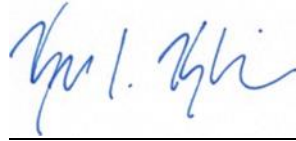
Sheehan.) Filing a Notice of Appearance within two weeks of joining a new law firm is not late.

Moreover, it is unlikely that Mr. Sheehan and Judge Newbern's shared history at the Vanderbilt Law School Appellate Clinic was the cause of Judge Newbern's recusal. While Mr. Sheehan is new to KSM, he is not a stranger to appearing before this Court, and Judge Newbern. As recently as 2021, Judge Newbern published decisions involving clients represented by Mr. Sheehan. *See Taggart v. Watts et al.*, No. 3:20-CV-00637, 2021 WL 6803233, at \*1 (M.D. Tenn. Aug. 5, 2021). Thus, it would appear that Mr. Sheehan's relationship with the Vanderbilt Law School Appellate Clinic cannot be the basis for Judge Newbern's recusal in the present case. Given the prior actions of Judge Newbern, it is unreasonable to think that Mr. Sheehan, KSM, or Vanderbilt expected, let alone intended, Judge Newbern to recuse over a month after Mr. Sheehan made an appearance.

### **CONCLUSION**

To conclude, Plaintiff's Motion has failed every criterion pertinent to judging its applicability—Vanderbilt has not been served; Mr. Sheehan's "late" filing was a result of him joining KSM after the initiation of this lawsuit; and Mr. Sheehan's association with the Vanderbilt Law School Appellate clinic has never served as a basis for Judge Newbern's to recuse in matter where Mr. Sheehan represented a client. Absent any specific allegations of misconduct, Vanderbilt respectfully asks that the Court deny this Motion so that that the parties can address the merits of the underlying litigation.

Respectfully submitted,



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*Counsel for Unserved Defendant, The Vanderbilt University*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Vanderbilt's Response in Opposition to Plaintiff's Motion to Disqualify was filed on the Court's CM/ECF system on this 15th day of July 2024, which forwarded a copy to:

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